

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

...

ORIGINAL APPLICATION NO. 624/2018

Order reserved on: 31.03.2021

Date of order: 12.05.2021

CORAM:

**HON'BLE MR. DINESH SHARMA, MEMBER (A)
HON'BLE MRS. HINA P.SHAH, MEMBER (J)**

Bhupendra Kumar Gangawat Son of Shri Rajendra Kumar Gangawat aged about 38 years resident of E-50/3 AdityaPuram, Sawa Shambhupura, Chittorgarh, Rajasthan-312622, Applicant Selected for the post of Senior Mining Geologist, Indian Mine Bureau of Mines, Nagpur Currently R/o S-101 Mahesh Nagar Jaipur-302015-Group B.

...Applicant

(By Advocate: Shri Himanshu Jain)

VERSUS

1. Union of India through Secretary, Ministry of Mines, Shastri Bhawan, New Delhi.
2. Chairman, Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi-110069.
3. Chief Controller Mines, Indian Bureau Mines, Indira bhavan, Civil Lines, Nagpur-440 001

4. Chief Administrative officer Indian Bureau Mines,
Indira bhavan, Civil Lines, Nagpur-440 001.

.....Respondents

(By Advocate: Shri N. C. Goyal)

ORDER

Per Mrs. Hina P. Shah, Member (J)

The present Original Application has been filed by the Applicant under Section 19 of the Administrative Tribunal Act, 1985 for the following reliefs:-

- "(i) By an appropriate order or direction the orders dated 05.01.2018 may kindly be quashed and set aside and respondents may be directed to consider the case of the applicant for appointment and accordingly grant him appointment with all consequential benefits.
- (ii) By appropriate order or directions Respondents may be directed to consider the applicant for appointment on the post of Senior Geologist Mining in the department.
- (iii) Any other order which this Hon'ble Tribunal deems just and proper in the facts and circumstances of the case may also be passed in favour of the applicant."

2. The case of the Applicant is that he applied for the post of Senior Mining Geologist in Indian Bureau of Mines and as per order dated 08.02.2016, his name was recommended by Respondent No. 2 to the Secretary, GOI, M/o Mines for appointment to the said post. As per letter dated 05.01.2017, his

name was shortlisted and he was called for interview for the said post on 30.01.2017. On being declared successful, letter dated 08.03.2017 was issued by the Respondents to the Superintendent, Maharana Bhupal Govt. Hospital, RNT Medical College, Udaipur stating that the Applicant has been selected for the post of Sr. Mining Geologist and a request was made for conducting medical examination of the Applicant. Consequent to pre-appointment formalities, Applicant was recruited on the said post vide order dated 12.06.2017 and he was asked to join his said place of posting at the office of Chief Controller of Mines, Indian Bureau of Mines, Indira Bhawan, Civil Lines, Nagpur by 12.07.2017. Due to ill-health of his father, he made an application for extension of time for joining his office upto 12.09.2017. His said request was considered by the Respondents vide Memorandum dated 18.07.2017. As he could not join he again requested for extension till 30.10.2017 for joining office on ill-health of his father vide letter dated 10.08.2017. Accordingly time was extended upto 30.10.2017 vide Memorandum dated 21.08.2017. The Applicant again vide his letter dated 31.08.2017 requested for extension of time for joining till 30.11.2017 on account of ill-health of his father as his father was suffering from chronic L.B.P., PIVD with radiation and was under treatment of medical experts. Respondents rejected the request of the Applicant vide Memorandum dated 13.09.2017 wherein it was

clearly stated that if the Applicant failed to join on 30.10.2017, the offer of appointment given to the Applicant shall lapse automatically (Annexure-A/9). The Applicant further states that the Respondents in an arbitrary manner and without considering the facts on record cancelled the appointment of the Applicant vide order dated 05.01.2018 (Annexure-A/1) and therefore, he has approached the Hon'ble Tribunal for redressal of his grievance.

3. Respondents after issue of notice filed their reply stating that it is not in dispute that the Applicant had applied for the post of Sr. Mining Geologist in Indian Bureau of Mines and his name was recommended to the Secretary, Govt. of India, M/o Mines for appointment to the said post. After medical examination, he was issued with an offer of appointment bearing No. A-19011/687/2017-Estt.A dated 12th June 2017 with a direction to report for duty to the Chief Controller of Mines, Indian Bureau of Mines, Indira Bhawan, Civil Lines, Nagpur by 12.07.2017. It was further mentioned in the said offer, that if he fails to join by the said date, the offer will be treated as cancelled. He had made a request for extension of time for joining by 12.09.2017. His further request for extension was also considered sympathetically whereby he was supposed to join the said post by 30th October 2017. Thereafter Applicant again vide his letter dated 'Nil' sought extension of time for joining Bureau till 30th November 2017 on

account of his father's illness. Till date he had not bothered to state that he had to serve three months notice to his existing employer. When he was asked to submit all the medical documents of his father as well as his Copy of Notice/resignation letter to be served on his existing employer as the Competent Authority desired to see them, he only submitted medical documents vide his application dated 31st August 2017. He added that he will produce resignation letter once he gets extension of time limit upto 30th November, 2017 and on receipt of communication by 10th September 2017. Respondents further state that the Applicant has concealed the matter before the Indian Bureau of Mines that he could not approach the existing employer with three months notice till 23rd August 2017 by which time he had already been given extension on second occasion. The Applicant is deliberately co-relating both the issues and trying to confuse the Hon'ble Tribunal. It is further stated that in Nagpur there are CGHS facilities for the benefit of the employees as well as family members. But taking a liberal approach, Respondents had finally extended the time period to join the said post by 30th October 2017 vide letter dated 13th September 2017. It was clearly informed to the Applicant that in case he fails to join by the said extended period i.e .till 30th October 2017, his offer of appointment shall lapse. Again Applicant had mailed and showed his inability to join due to personal problems

and sought extension till 15th December 2017. He again sent a letter dated 'Nil' requesting for extension of time limit for joining the Bureau till 12th January 2018 stating personal problems and father's illness. Respondents state that the maximum period for joining the new post is six months from the date of issue of 'original offer of appointment' in terms of para 2 of DOPT OM No. 35015/2/93-Estt.(D) dated 9th August, 1995. It is clear that an offer of appointment would lapse automatically after the expiry of six months from the date of issue of original offer of appointment. Thus as the original offer of appointment was given to the Applicant dated 12th June 2017, therefore, the same automatically lapses as on 11th December 2017. It is the Applicant who is himself responsible for automatic lapse of the 'Offer of appointment' as he himself kept on requesting for extension of time limit from time to time. However, the offer of appointment was cancelled vide Memorandum dated 5th January 2018 since the Applicant could not join the Bureau within the maximum time limit of six months from the date of issue of the original offer of appointment. As the Respondents have sympathetically considered his request for extension of time again and again to join the place of posting and finally had cancelled the said offer after six months, the allegations levelled by the Applicant about arbitrariness as well as non-application of mind cannot be accepted as the action of the Respondents has

been taken as per Govt. instructions. Therefore, Applicant is not entitled for any relief and the present OA deserves to be dismissed.

4. The Applicant has filed Rejoinder denying the submissions of the Respondents that he has concealed any facts before the Hon'ble Tribunal. It is a fact that father of the Applicant is of ill health and, therefore, time and again he has sought extension of time for joining and said request was also considered by the Respondents time and again and finally extension of time was granted upto 30.10.2017 for joining on the post of Senior Mining Geologist vide Memo dated 21.08.2017. It is germane to mention that as the health condition of his father was really bad and as he was the sole person to take care of his father, therefore he was unable to submit his resignation to his current employer. As they have failed to appreciate the medical reports, the order dated 05.01.2018 has been passed without taking into consideration the spirit of the rules and in a callous manner cancelled his appointment. Therefore, it is prayed that his candidature may be re-considered and that he be considered for appointment with all consequential benefits.

5. We have heard the learned counsel for the parties at length through video conference and examined the pleadings minutely as well as the judgements cited by the parties.

6. The Applicant and the Respondents reiterated their submissions as stated earlier.

7. After hearing the parties and perusing the pleadings, the facts of the case are not in dispute pertaining to applicant being granted offer of appointment to the post of Senior Mining Geologist vide Memorandum bearing No. A-19011/687/2017-Estt.A dated 12th June 2017 with a direction to report for duty to the Chief Controller of Mines, Indian Bureau of Mines, Indira Bhawan, Civil Lines, Nagpur by 12.07.2017. Time and again the said period of joining was extended by the Respondents and it is clear that the maximum period for joining the new post is six months from the date of issue of 'original offer of appointment' in terms of para 2 of DOPT OM No. 35015/2/93-Estt.(D) dated 9th August,1995. It is clear that an offer of appointment would lapse automatically after the expiry of six months from the date of issue of original offer of appointment. Thus as the original offer of appointment was given to the Applicant dated 12th June 2017, therefore, the same automatically lapses as on 11th December 2017. It is also seen that the Applicant had requested the Respondents for extension of time in joining the said post on account of ill health of his father and that he had to submit three months notice to his previous employer. But when the competent authority expressed his desire to see the documents of medical health of his father as well as Copy of Notice given to the Ex-

Employer, Applicant could only submit medical reports of his father's health but did not show about the copy of Notice.

8. We have noticed that the Respondents have time and again extended the joining period of the Applicant from July 2017 till December 2017. It is clear that they are also bound by rules. As per DOPT O.M., No. 35015/2/93-Estt.(D) dated 9th August, 1995, the maximum permissible limit is six months extension and therefore it cannot be said that the Impugned order in question dated 5.01.2018 has been passed without application of mind or there is any arbitrariness on the part of Respondents. In fact, it is the Applicant who is himself responsible in not joining the said post may be due to the ill health of his father but it is highly unfair on part of the Applicant to state that the Respondents in callous manner have cancelled the offer of appointment given to the Applicant. Also with regard to the judgement of Hon'ble CAT PB cited by the Applicant in case of Dr. Asraf dated 18.09.2017 cannot be applied in the present case as the facts of the present case are completely different from the facts of that case. Therefore, we do not find any illegality, arbitrariness or any malafides in the action of the Respondents.

9. In view of the discussions made above, we do not find any merits in the OA filed by the Applicant and thus Applicant is not entitled for any relief as the impugned order dated 05.01.2018 is

just and proper. Accordingly, the Original Application is dismissed. No costs.

10. In view of the order passed in the Original Application, all the pending Misc. Applications are disposed of as infructuous.

(HINA P SHAH)
Member (J)

Vv!

(DINESH SHARMA)
Member (A)